

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BARBARA SUE BROWN,

Defendant.

CR 19–23–M–DWM

ORDER

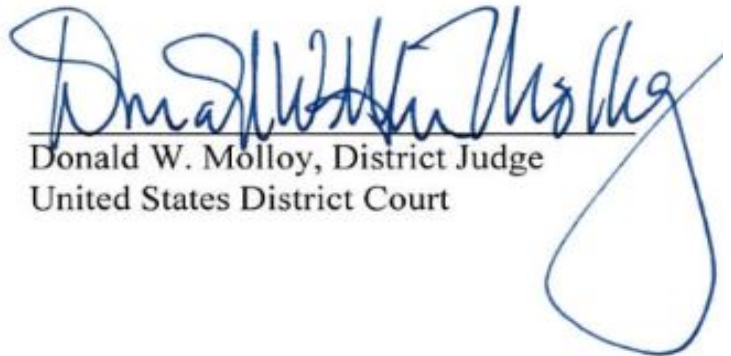
On August 1, 2019, Defendant Barbara Brown filed a Motion to Quash Missoula Municipal Court Order Requiring Defendant’s Personal Appearance. (Doc. 38.) The government does not take a position on the motion. (*Id.* at 2.) Because “the normal thing to do when federal courts are asked to enjoin pending proceedings in state courts is not to issue such injunctions,” *see Younger v. Harris*, 401 U.S. 37, 45 (1971), the motion is denied.

However, given the May 21, 2019 Writ of Habeas Corpus *ad Prosequendum* issued by the Clerk for United States District Court for the District of Montana, (Doc. 7), Brown remains in temporary federal custody, 28 U.S.C. § 2241(c)(5); *see Johnson v. Gill*, 883 F.3d 758, 762–63 (9th Cir. 2018) (discussing jurisdictional relationship among sovereigns). Brown therefore does not have the capacity to voluntarily appear in Municipal Court absent a writ sought by the City of

Missoula. *But see* U.S. Const. art. VI, cl. 2; *United States v. Segal*, No. CR 17-12-M-DLC-3, (Doc. 109) (D. Mont. Aug. 28, 2017). Notably, it would be both unethical and ineffective for defense counsel to seek such a writ given the potential federal sentencing implications here.

Accordingly, IT IS ORDERED that Brown's motion (Doc. 38) is DENIED. Brown will be returned to state custody following the entry of judgment in this case. (*See* Doc. 7.) Notably, the defendant is currently facing a minimum of ten years in federal custody.

DATED this 6th day of August, 2019.



Donald W. Molloy, District Judge
United States District Court